

REMARKS

Claims 1-7, 15 and 17 are respectfully submitted for reconsideration.

Claims 8-14 and 18-20 have been withdrawn from further consideration.

Claims 1-7, 15 and 17 were rejected under 35 U.S.C. §112, first paragraph.

Claims 1-3, 7, 15 and 17 were rejected under 35 U.S.C. §102(b) as being anticipated by Campos, U.S. 2,116,300.

Claims 1-3, 6, 7, 15, and 17 were rejected under 35 U.S.C. §102(b) as being anticipated by Moe, U.S. 2,059,135.

Claims 1-3, 15, and 17 were rejected under 35 U.S.C. §102(b) as being anticipated by Austin, U.S. 540,345.

Claims 1-3, 6, 7, 15, and 17 were rejected under 35 U.S.C. §102(b) as being anticipated by Kubo, U.S. 2,050,756.

Claims 1-3, 6, 15, and 17 were rejected under 35 U.S.C. §102(b) as being anticipated by Jopling, U.S. 934,192.

Claims 1-7 were rejected under 35 U.S.C. §102(b) as being anticipated by Wiltse, U.S. 415,010.

Claims 8 and 12 were rejected under 35 U.S.C. §102(b) as being anticipated by Spilo, U.S. 2,318,812.

Claims 4 and 5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Austin, U.S. 540,345.

Claims 4 and 5 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kubo, U.S. 2,050,756.

Regarding the 35 U.S.C. §112, first paragraph rejection, it is respectfully submitted that “one of ordinary skill in the art” should be considered at least a veterinarian’s assistant or an animal groomer. As such, it should be understood that several different dogs are to be treated throughout the working day of the skilled artisan using the instant device.

The written description includes various statements that indicate that the device is a handheld device. For example, at paragraph [0003], the disclosure mentions that the device “relates to a powder dispenser for treating a dog’s toenail that has an injured quick”. As mentioned throughout the disclosure and shown in the accompanying drawings, the device is used for treating at least injured toenails of dogs. Paragraph [0010] states “[a] cotton swab or other small cleaning implement cleans the recess of the powder dispenser.” Paragraph [0014] states that “[t]he reservoir may be shaken, flicked or tapped to cause the power to flow from the reservoir to the measure.” At paragraph [0015] the disclosure states that “[i]t is a further object of the invention to provide a powder measure dispenser that is easy to use.” At paragraph [0017], “[i]t is an object of the invention to provide a less wasteful powder dispenser for dispensing a measured amount of powder necessary for treating a damaged dog toenail.” A large device, for example those referenced above and cited in the Official Action, would not comply with these objects of the invention in that they would waste styptic powder.

The instant application, at paragraph [0033], states “[w]alls 3 define reservoir 2 and may include a pocket clip on an exterior surface of the wall. The

pocket clip may be similar to those included on a pen.” It is understood that a pocket clip for a pen is used to secure the pen within a pocket of a shirt or pants. This paragraph alone denotes the size of the device and may be interpreted as supporting that the device is handheld.

Again at paragraph [0034], the application states that in Figure 2, the powder measure 13 is positioned beneath powder reservoir 2 in a “closed” or “filling” position such that the measure 13 accepts powder from reservoir 2. From the disclosure it is clear that a device that is not handheld could not be easily maneuvered to fill the measure. This is again supported at paragraph [0035], which states in part, “[t]o use the dispenser 1, the toenail trimmer positions the powder measure 13 at an elevation lower than the powder reservoir 2 as shown in Figure 2. The trimmer then shakes or taps the powder dispenser 1 causing powder from the reservoir 2 to flow into the measuring cap recess 14.” This clearly indicates that the device is handheld. Moreover, at paragraph [0036], “[t]he trimmer then orients the powder dispenser as shown in Figure 3 and rotates the stop 16 downward and in a angular manner to expose the recess 14.”

Again at paragraph [0040], the disclosure states that “[d]uring treatment, the user inserts the injured end of the toenail into the powder filled recess 14. Alternatively, the trimmer may pour a measured dosage of powder from the measure 13 onto a cut or tear in an animal’s coat.” Since the elected species of the powder measure is not removable, the disclosure cannot be construed to be a device that is not handheld.

Moreover, at paragraph [0041] the disclosure states that “[t]he removable end cap 8 includes a complementary extension 10 that slides into and mates with the internal wall 3D (shown in Figure 10) of the reservoir 2. A thumb edge 9 is included on the removable end cap 8 for assisting in removal of the end cap 8 from the reservoir 2.”

Reconsideration and withdrawal of the 35 U.S.C. §112 rejection are respectfully requested for at least the above reasons.

It is respectfully submitted that none of the cited prior art discloses a handheld device for use in treating damaged dog toenails. Moreover, none of the cited prior art can be properly used to treat a damaged dog toenail.

The present invention is a handheld powder dispenser for dispensing a measured amount of powder, preferably for treating a dog's toenail. The dispenser may be provided in a size that fits in a pocket of a user. In use, the dispenser is arranged such that the powder measure is at an elevation lower than the powder reservoir to cause powder to migrate from the reservoir to the measure. The measure includes a stop which prevents the measure from being over rotated.

It is respectfully submitted that none of the cited references include all of the claimed elements of independent claims 1 and 15. Namely none of the references are handheld powder dispensers having a powder measure with circular extensions and arranged between wall extensions that comprise circular holes formed therein for receiving the circular extensions.

Independent claim 1, upon which claims 2-7 depend, recites a handheld powder dispenser comprising a powder reservoir for accepting and storing powder and having at least one open end. The powder reservoir comprises a pair of wall extensions formed at an end of the powder reservoir opposite the at least one open end. Each wall extension includes a circular hole. The powder reservoir further includes a lip arranged between the pair of wall extensions. An end cap seals the one open end of said powder reservoir. A rotatable powder measure includes a recess for accepting powder from the powder reservoir and affixes at an end of the powder reservoir opposite the removable end cap between the pair of extensions. The rotatable powder measure comprises circular extensions that mate with the circular holes formed in the wall extensions.

Independent claim 15, upon which claim 17 depends, recites a handheld powder dispenser for dispensing a measured dosage of powder. The powder dispenser comprises a powder reservoir defined by walls and having at least one open end for receiving and dispensing powder therethrough. The powder reservoir comprises a pair of wall extensions formed at an end of the powder reservoir opposite the at least one open end. Each wall extension includes a circular hole. A powder measure affixes at the at least one open end of the powder reservoir. The powder measure comprises a recess having a volume for receiving a measured amount of powder from the powder reservoir. The powder measure is arranged between the pair of wall extensions and comprises circular extensions that mate with the circular holes formed in the wall extensions.

It is respectfully submitted that none of the cited prior art references include all of the claimed features of the instant invention and are handheld as the presently claimed invention.

Campos, U.S. Patent Serial No. 2,116,300, discloses an airtight coffee container. The container includes an apertured extension 2 for hanging the container from a wall. It is clear that Campos is neither handheld nor does he include any extensions or powder measure as claimed above. As such, the parts of Campos are not the analogous to the claimed parts of the instant invention.

Moe, U.S. Patent Serial No. 2,059,135, discloses a dispensing device for dispensing bulk goods. The device includes a dispensing unit 31. From the drawings it is clear that Moe is neither handheld nor does he include the claimed extensions or powder measure as claimed in the instant invention. As such, the dispensing unit of Moe is not analogous to the present invention and cannot be properly used to reject the instant invention under 35 U.S.C. §102.

Austin, U.S. Patent Serial No. 540,345, discloses a powder box and measuring attachment. The measuring attachment includes a crank handle G or a handle P, depending on the two different embodiments. The measure is cylindrical and includes an opening in one side to discharge powder. The crank handle G is used to revolve the measure. A curved guard plate H, is attached to the bottom of the box and extends about halfway around the rotary measure so that no powder will be wasted. The Austin device is used for storing various baking powders. Lugs d shown in Figure 3 are not extensions of either the box

or measuring attachment, as such, they are not analogous to the extensions of the present invention. Moreover, it is clear that Austin is not a handheld dispenser, as recited in the claims of the present invention.

Kubo, U.S. Patent Serial No. 2,050,756, discloses a dispenser for granular material such as sugar. The container is provided with a false bottom 2 which has a downward slope toward the front and terminates in an outlet 3. A removable lid 6 is provided for enabling a user to replenish the supply of the sugar, as necessary. A hinge is provided for allowing a spout to pivot. It is clear that Kubo neither includes any extensions, nor a powder measure, as claimed in the present invention. Moreover, Kubo does not include an open end for both receiving and dispensing powder, as recited in independent claim 15.

Jopling, U.S. Patent Serial No. 934,182, discloses a dispensing receptacle for tooth powder. The receptacle includes an outer casing including an opening in a sidewall that opens into a separate chamber to permit a tooth brush to be inserted therein. An opening is provided at the top for accepting powder. Jopling does not include any extensions, nor a powder measure, arranged and claimed as in the present invention. Moreover, Jopling does not include an open end for both receiving and dispensing powder.

Wiltse, U.S. Patent Serial No. 415,010, discloses a box for retailers' use. The box is placed on an edge of a counter for the free play of the connecting rod L through the bottom of the box. A foot lever operates the box to allow removal of the crackers, rice or other merchandise stored therein. It is clear that Wiltse is not a handheld device. Moreover, the device does not operate in the same

manner as the presently claimed invention. Wiltse fails to teach any extensions, or a powder measure as claimed in the present invention. Moreover, Wiltse does not include an open end for both receiving and dispensing powder, as claimed in independent claim 15 of the present invention.

Spilo, U.S. Patent Serial No. 2,318,812, discloses a measuring and dispensing device for packaged material. The device includes a storage area and a separate compartment that includes a reservoir formed between an inclined wall and top of the compartment. The arrangement of parts in Spilo indicates that his device does not operate in the same manner as the presently claimed invention. Spilo fails to teach any extensions, or a powder measure as claimed in the present invention. Moreover, Spilo does not include an open end for both receiving and dispensing powder, as claimed in independent claim 15 of the present invention.

The applicants respectfully submit that there is neither a suggestion nor any motivation for modifying either Austin or Kubo to teach all of the claimed elements of the present invention.

It is respectfully submitted that since none of the cited references teach all of the claimed elements of the present invention, a 35 U.S.C. §102 rejection is improper. Reconsideration and withdrawal of these rejections are respectfully requested.

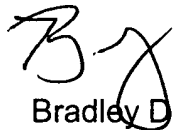
Regarding the 35 U.S.C. §103 rejections, it is respectfully submitted that neither cited reference includes a suggestion or motivation to modify the reference or to combine reference teachings. Moreover there is no reasonable

expectation of success and the cited prior art references fail to teach or suggest all the claim limitations of the independent claims. Thus, any resultant combination of the cited references fails to teach or suggest all the claim limitations. As such none of the cited references may be relied upon to properly rejected the instant invention under 35 U.S.C. §103.

The applicants respectfully submit that the subject matter which distinguishes the present invention from the cited prior art is more than sufficient to render the claimed invention unobvious to a person of ordinary skill in the art. The applicants therefore respectfully request that all of the pending claims be found allowable, and this application be passed to issue.

If for any reason the Examiner determines that the application is not currently in condition for allowance, it is respectfully requested that the Examiner contact by telephone, the applicant's undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'B. Goldizen', is written over the printed name.

Bradley D. Goldizen
Attorney for Applicant
Reg. No. 43,637

Atty. Docket No. DIR-001-04
Goldizen & Associates
505 S. Independence Blvd.
Suite 102
Virginia Beach, VA 23452
Tel (757) 490-1151
Fax (757) 497-5560